

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

DE YAN CHEN	:	DOCKET NO. 2:05-cv-1927 Section P
VS.	:	JUDGE MINALDI
IMMIGRATION & CUSTOMS ENFORCEMENT, ET AL.	:	MAGISTRATE JUDGE WILSON

REPORT AND RECOMMENDATION

Currently before the court is a “Motion to Dismiss” [doc. 8] filed on behalf of the respondents in the above-captioned *habeas corpus* matter. This matter has been referred to the undersigned magistrate judge for review, report, and recommendation in accordance with 28 U.S.C. §636(b)(1)(B).

This petition for writ of *habeas corpus* was filed by *pro se* petitioner, De Yan Chen, to challenge his continued detention in post-removal-order custody. In the petition, he states that he has been in post-removal-order custody for more than six months and that there is no significant likelihood of removal in the reasonably foreseeable future.

In light of the facts presented by Petitioner, the court ordered the government to respond to the petition. In response to the petition, the government filed the Motion to Dismiss which is currently before the court, arguing that this matter should be dismissed as moot. In support of this motion, the government presents documentation which establishes that the petitioner was released from post-removal-order detention to an Order of Supervision on November 2, 2005. *See* Government Exhibits A & 1.

Because the summary judgment type evidence before the court establishes that petitioner is no longer in custody, the court finds that his challenge to his post-removal-order detention is now moot and should be dismissed.

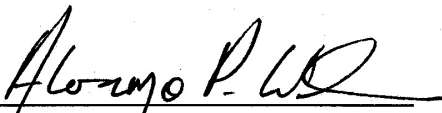
For this reason,

IT IS RECOMMENDED that the "Motion to Dismiss" [doc. 8] be GRANTED and that this petition be DENIED AND DISMISSED WITH PREJUDICE as moot.

Under the provisions of 28 U.S.C. §636(b)(1)(C), the parties have ten (10) business days from receipt of this Report and Recommendation to file any objections with the Clerk of Court. Timely objections will be considered by the district judge prior to a final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY FROM ATTACKING ON APPEAL, EXCEPT UPON GROUNDS OF PLAIN ERROR, THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT COURT.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 1st day of March, 2006.


ALONZO P. WILSON
UNITED STATES MAGISTRATE JUDGE